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OPEN MEETING ITEM



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BRIAN C. MCNEIL  
Executive Secretary

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ARIZONA CORPORATION COMMISSION

2003 SEP 16 P 3: 54

DATE: September 16, 2003

DOCKET NO: T-04126A-02-0583

TO ALL PARTIES:

AZ CORP COMMISSION  
DOCUMENT CONTROL

Enclosed please find the recommendation of Administrative Law Judge Lyn Farmer.  
The recommendation has been filed in the form of an Order on:

SANTRAC TECHNOLOGIES, INC.  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 25, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 30 AND OCTOBER 1, 2003

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For more information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

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SEP 16 2003

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BRIAN C. MCNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MARC SPITZER, Chairman  
4 JIM IRVIN  
5 WILLIAM A. MUNDELL  
6 JEFF HATCH-MILLER  
7 MIKE GLEASON

8 IN THE MATTER OF THE APPLICATION OF  
9 SANTRAC TECHNOLOGIES, INC. FOR A  
10 CERTIFICATE OF CONVENIENCE AND  
11 NECESSITY TO PROVIDE RESOLD LOCAL  
12 EXCHANGE SERVICE AND FOR  
13 DETERMINATION THAT SERVICES OF THE  
14 APPLICANT ARE COMPETITIVE.

DOCKET NO. T-04126A-02-0583

DECISION NO. \_\_\_\_\_

**ORDER**

15 Open Meeting  
16 September 30 and October 1, 2003  
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the  
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

21 1. On July 31, 2002, SanTrac Technologies, Inc. ("SanTrac" or "Applicant") filed with  
22 the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to  
23 provide resold local exchange service and for determination that services of the Applicant are  
24 competitive.

25 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
26 telecommunications providers ("resellers") were public service corporations subject to the  
27 jurisdiction of the Commission.

28 3. Applicant is authorized to do business in Arizona.

4. Applicant is a switchless reseller, which purchases telecommunications services from  
a variety of carriers.

5. On March 6, 2003, Applicant filed Affidavits of Publication indicating compliance

1 with the Commission's notice requirements.

2 6. On September 4, 2003, the Commission's Utilities Division Staff ("Staff") filed its  
3 Staff Report recommending approval of the application with some conditions, without a hearing.

4 7. In its Staff Report, Staff stated that SanTrac provided financial statements for the  
5 period ending December 31, 2002. These financial statements list assets of \$6,945, equity of \$7,307  
6 and a net income of \$7,319. Based on the foregoing, the Commission believes that Applicant lacks  
7 adequate financial resources to be allowed to charge customers any prepayments, advances, and/or  
8 deposits without posting a surety bond to cover such prepayments, advances, and/or deposits.

9 8. In its Staff Report, Staff stated that based on information obtained from the applicants,  
10 it has determined that SanTrac's fair value rate base is \$3,869.28, and is too small to be useful in  
11 setting rates. Staff further stated that in general, rates for competitive services are not set according  
12 to rate of return regulation, but are heavily influenced by the market. Staff recommended that the  
13 Commission not set rates for SanTrac based on the fair value of its rate base.

14 9. Staff believes that SanTrac has no market power and that the reasonableness of its  
15 rates will be evaluated in a market with numerous competitors. In light of the competitive market in  
16 which the Applicant will be providing its services, Staff believes that the rates in Applicant's  
17 proposed tariffs for its competitive services will be just and reasonable, and recommends that the  
18 Commission approve them.

19 10. Staff recommended approval of the application subject to the following conditions,  
20 that:

21 (a) The Applicant should be ordered to comply with all Commission rules, orders,  
22 and other requirements relevant to the provision of intrastate telecommunications  
23 service;

24 (b) The Applicant should be ordered to maintain its accounts and records as  
25 required by the Commission;

26 (c) The Applicant should be ordered to file with the Commission all financial and  
27 other reports that the Commission may require, and in a form and at such times as the  
28 Commission may designate;

(d) The Applicant should be ordered to maintain on file with the Commission all

current tariffs and rates, and any service standards that the Commission may require;

(e) The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;

(f) The Applicant should be ordered to cooperate with Commission investigations of customers complaints;

(g) The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;

(h) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;

(i) The Applicant's local exchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(j) The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109; and

(k) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

(l) The Applicant should be ordered to file an application with the Commission pursuant to A.A.C. R14-2-1107, if the Applicant desires to discontinue service. The Applicant should be required to notify each of its customers and the Commission no later than 60 days prior to filing an application to discontinue service; and any failure to do so should result in forfeiture of the Applicant's performance bond.

11. Monthly service charges for resold local exchange service are paid in advance.

12. Staff further recommended that SanTrac's application should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days of an Order in this matter, or 30 days prior to providing service, whichever comes first.

13. In order to protect the Applicant's customers, Staff recommended that Applicant's CC&N should be conditioned upon:

(a) Applicant filing a performance bond equal to \$25,000. The minimum bond amount of \$25,000 should be increased if at any time it would be insufficient to cover prepayments, advances, and/or deposits collected from the Applicant's customers. The bond amount should be increased in increments of \$12,500. This increase should occur when the total amount of the advances, deposits,

and prepayments is within 2,500 of the bond amount; and

(b) Applicant docketing proof of the performance bond within 365 days of the effective date of an order in this matter or 30 days prior to the provision of service, whichever comes first and which must remain in effect until further order of the Commission.

14. Staff recommended that if Applicant fails to meet the timeframes outlined in Findings of Fact No. 12 and 13 above, that SanTrac's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

15. The rates proposed by this filing are for competitive services.

16. Staff's recommendations are reasonable and should be adopted.

17. SanTrac FVRB is \$3,869.28.

### **CONCLUSIONS OF LAW**

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold local telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact Nos. 8, 9, 10, 12, 13, and 14 are reasonable and should be adopted.

7. SanTrac's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide to Arizona customers.

### **ORDER**

IT IS THEREFORE ORDERED that the application of SanTrac Technologies, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold local exchange telecommunications services is hereby granted, conditioned upon its compliance with the conditions

1 recommended by Staff in Findings of Fact Nos. 10, 12 and 13.

2 IT IS FURTHER ORDERED that if SanTrac Technologies, Inc. fails to meet the timeframes  
3 outlined in Finding of Fact No. 12 and 13, the Certificate of Convenience and Necessity conditionally  
4 granted herein shall become null and void without further order of the Commission.

5 IT IS FURTHER ORDERED that if SanTrac Technologies, Inc. fails to notify each of its  
6 customers and the Commission at least 60 days prior to filing an application to discontinue service  
7 pursuant to A.A.C. R14-2-1107, that in addition to voidance of its Certificate of Convenience and  
8 Necessity, SanTrac Technologies, Inc.'s performance shall be forfeited.

9 IT IS THEREFORE ORDERED that SanTrac Technologies, Inc. shall comply with all Staff  
10 recommendations adopted herein.

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IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, SanTrac Technologies shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
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COMMISSIONER	COMMISSIONER
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IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

LF:mlj

1 SERVICE LIST FOR: SANTRAC TECHNOLOGIES, INC.

2 DOCKET NO.: T-04126A-02-0583

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